IN THE HIGH COURT OF JUDICATURE FOR

RAJASTHAN AT JODHPUR

::::

O R D E R

Assistant Engineer, PHED
Vs.
Labour Court & Anr.

S.B. CIVIL WRIT PETITION NO.862/2002 UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

DATE OF ORDER :: 29th August, 2006

PRESENT

HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

Mr.Rameshwar Dave, Dy.Govt. Advocate for the petitioner.

BY THE COURT

The present writ petition has been filed against the award dated 05th August, 2000 passed by the Industrial Tribunal-cum-Labour Court, Sri Ganganagar (for short 'the Tribunal') answering the reference made to it by appropriate Government on 17th July, 1995. The reference was made on the question whether the action of the workman in not making payment of

salary in the regular pay scale inspite of the respondent workman having been declared semi permanent by order dated 02.05.1992 is legal and justified and if not what relief respondents was entitled to.

The learned Tribunal upon consideration of the entire evidence and hearing arguments of the parties held that when the workman was declared semi permanent by order dated 02.05.1992 as a natural corollary thereto he was also entitled to payment of salary in regular pay scale on the post of Beldar. Case set up by the petitioner management before the learned Tribunal was that the order dated 02.05.1992 by which the respondent-workman was declared semi permanent had already been cancelled. The learned Tribunal on examination of the affidavits filed on behalf of the management concluded that no categorical stand has been taken by the management with regard to cancellation of the order dated 02.05.1992. It has been further held that the management did not produce copy of any such order by which the earlier order dated 02.05.1992 was cancelled. The learned Tribunal also noted the fact that the management already started making payment to the workman in the regular pay scale.

I have heard learned counsel for the parties and perused

the record.

In the writ petition, petitioner have sought to rely on subsequent seniority list dated 03.08.1992 and contended that the semi permanent status was conferred on the petitioner on 31.03.1994. They have however not come out with the specific plea whether the order dated 02.05.1992 which firmed basis of the impugned award was ever cancelled. The petitioner has also not placed on record any order of cancellation. Moreover, when the petitioner has started the payment of regular salary to the respondent workman w.e.f. 11.01.1995, I hardly find any good ground to interfere with the award of the learned Tribunal, where it has issued a limited direction to the petitioner-management to make payment on his salary in the regular pay scale for the period from 02.05.1992 to 31.012.1994.

The writ petition is hereby dismissed. There shall not no order as to costs.

[MOHAMMAD RAFIQ],J.

Ashwini/-